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ABSTRACT

This report is a 1983 update on corporal punishment prepared for the Illinois State Board of Education. It gives a historical perspective and reviews the practices in selected states and metropolitan districts. Corporal punishment is allowed in 46 states; 4 states prohibit it. Among large school districts in metropolitan areas there is a tendency to prohibit or restrict the use of corporal punishment. Many states and districts have provided safeguards for the protection of students from misuse of corporal punishment. The report includes a limited literature review representing advocates and opponents of corporal punishment. Included are tables providing information on the use of corporal punishment in selected states and in selected large cities, and on the positions agencies and organizations take on the issue. Federal law leaves the regulation of corporal punishment primarily to the states. In Illinois the "in loco parentis" status of the schools is interpreted differently by different agencies, and the school code does not specifically address corporal punishment. Research is inconclusive as to the benefit derived from corporal punishment. The report points out that the majority of the available literature is written in opposition to corporal punishment. (MD)

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Corporal Punishment
An Overview

Illinois State Board of Education

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State Board of Education

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Springfield, Illinois
February, 1983

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Corporal Punishment:
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Corporal Punishment: An Overview

I. Purpose

In response to a request by a member of the State Board of Education, a report on corporal punishment was written in April, 1982 (See Appendix I). Several states have reviewed or are reviewing their policies on the use of corporal punishment in public schools and, in Illinois, too, public interest has been generated by a number of newspaper articles on corporal punishment practices in a large city school district.

The primary purposes of this report are to update and supplement the earlier State Board of Education report on corporal punishment by providing an historical perspective on corporal punishment, seeking information which describes current practices and regulations in metropolitan school districts and other states, identifying the viewpoints of those groups supporting corporal punishment and those groups opposing its use in schools, and, finally, reviewing selected literature on the topic. Findings from these multiple sources are then presented.

In 1981, the Illinois State Board of Education provided all school districts with copies of Youth and Society, Rights and Responsibility (second edition), a publication developed in cooperation with the Constitutional Rights Foundation. This publication defines corporal punishment as a punishment inflicted directly on the body. The most common form of corporal punishment used in schools is spanking a child on the buttocks with a wooden board, commonly referred to as a paddle, approximately one to two feet long.

The phrase in loco parentis provides the legal basis on which schools are authorized to discipline students. This phrase translates to "in the place of parents." The School Code (1981), Section 24-24, affirms this interpretation by requiring educators to "maintain discipline in the schools" and to "stand in the relation of parents and guardians to the pupils." Although corporal punishment is not specifically addressed, the rights accorded to parents in disciplining their children are transposed into the educational setting. State Board of Education Document 1 refers to statute and adds in Section 2-8 (p. 9):

> "To prevent misuse of this broad concept as set out in Section 24-24 of The School Code of Illinois, the district shall comply with the following:
>
> If corporal punishment is to be used by school districts as a penalty for misbehavior, the district shall notify parents upon initial enrollment of the student that they may submit a written request that corporal punishment not be administered to their child or children."

In addition, State Board of Education Document 1, Section 2-1.2, requires local school districts to have a formal policy on discipline including corporal punishment.

On the basis of this definition and current regulation, this report will provide an overview of corporal punishment in the following sequence:

Section II describes the method for obtaining information on which this report was written.

Section III provides a historical perspective of corporal punishment from ancient to modern day practices.

In Section IV of this report, an overview of the practices and regulations in other states and metropolitan school districts are reported, legal issues regarding corporal punishment are discussed, and an example of litigation in the courts is summarized.

Section V consists of selected reviews of current literature.

In Section VI, the findings of this report are discussed.

II. Methodology

Information for this report was obtained through telephone interviews with officials in state departments of education, organizations with a special interest in corporal punishment, and selected metropolitan school districts. Materials subsequently received from these sources was also reviewed. A brief review of selected literature was conducted to provide viewpoints of groups not represented in the above interviews.

Contact was made in those states prohibiting corporal punishment to determine the rationale which led to its prohibition. Officials in other states were contacted because of characteristics similar to Illinois. Metropolitan school districts were selected on the basis of size without regard to state regulations or statutes which permitted or prohibited corporal punishment.

Organizations which are referenced in this report tend to represent those groups opposing corporal punishment. There were no identified groups which actively advocated corporal punishment, although some organizations have stated their support of its continuation. There is often little motivation to campaign actively for a prevailing practice since the desired condition is already established. The reverse, of course, applies to those groups desiring change.

Because of time constraints, no attempt was made to conduct a statewide analysis. The reported data represent information from selected states, large cities and organizations, and reflects a limited sampling of possible data sources. A computer search of the literature revealed copious material, the overwhelming percentage of which was in opposition to the use of corporal punishment.

III. Historical Perspective

Children are born with no knowledge of the behavioral expectations of their culture. Teaching and training them to conform to society's expectations has traditionally been the role of parents, and the use of discipline has been a major component in the process of socialization.

Corporal punishment as a means of disciplining children dates back to pre-biblical times. Numerous biblical references such as the proverb "spare the rod and spoil the child", urge parents to use corporal punishment as a means of discipline.

The Department of Children and Family Services takes the position that there is often a very fine line between discipline and child abuse. DCFS has published a booklet, "Understanding Child Abuse," which provides a grim history of the maltreatment of children by parents and caretakers. The attitude which permitted mistreatment is that children were possessions of their parents and, as such, were subject to their will without outside intervention. Parents have historically been given almost total freedom in the manner and severity of disciplinary methods which could be used with their minor children. Children had no legal rights in relation to their parents prior to the age of majority.

Although it is reasonable to assume that most parents demonstrated affection and concern for their children to the degree that excessive corporal punishment was the exception rather than the rule, there apparently was sufficient cause to enact child abuse laws. The first significant child abuse case was brought to court in 1874 by members of the Society for the Prevention of Cruelty to Animals (New York). In 1881, New York enacted an anti-cruelty to children law. In 1910, California passed a law making it illegal to abuse children; the fine was payable to the dog catcher. Illinois passed its Abused Child Act in 1965. These historical accounts reported by the Department of Children and Family Services reveal a long history of society's reluctance to intervene in the parent-child relationship and to provide legal protection for the safety and well being of children.

Given this historical perspective, it is not surprising that schools in loco parentis adopted the prevailing discriplinary practices in society. When society's discipline methods were harsh, the schools also tended to administer harsh punishment. Many senior citizens will verify the liberal use of leather straps, wooden rods and other objects which were used as a means of "spanking" or "caning" unruly school children in past generations. Many children were given a second punishment at home for misbehavior at school.

During the 1960s and 1970s, new cultural values and mores were incorporated into American society. Human rights were advocated and became a visible part of national policy in governmental affairs. Internationally, foreign aid was contingent on human rights criteria. The military services prohibited the physical abuse of recruits and enlisted personnel. Criminals were protected by law from physical force in excess of that required for restraint by the arresting authority. Punishment (other than the death penalty) for crimes against society was limited to incarceration, parole and other practices which exclude physical force. Sociologists have labeled

these years as a "permissive era". Some groups contend that these changes may have contributed to the perceived deterioration of acceptable behavior in youth.

Those who support corporal punishment as a means of discipline maintain that the practice has endured for centuries because it is a highly effective means for modifying behavior. These advocates believe that corporal punishment is an expedient and successful method by which children can be taught to refrain from misbehavior. Research in the psychology of motivation supports the theory that pain or discomfort will cause a person (young or old) to avoid the situation that results in punishment.

Opponents of corporal punishment in schools state that school children are the only societal group still unprotected by law from corporal punishment and that instances of injury to children can and do occur in schools where corporal punishment is allowed. (See Appendix II) Although society sanctions the parental right to discipline minor children, all states now have child abuse laws which limit the degree of punishment which a parent or caretaker can administer.

The in loco parentis status of the schools is not recognized by the Department of Children and Family Services according to information provided by DCFS staff. The role of teachers and administrators is not interpreted by DCFS to be that of a parent or caretaker, and only parents and caretakers are subject to child abuse regulations. Parents who make allegations of child abuse against educators are referred back to the school administration and then advised to seek legal counsel for possible court proceedings. In contrast, educators are required by law (P.A. 81-1077) in Illinois to report to DCFS any evidence of possible child abuse (physical or emotional) by parents or caretakers when a student exhibits bruises, welts, contusions, or other marks which are suspect because of pattern, severity or frequency of occurrence.

Periodically, corporal punishment complaints are made directly to the State Board of Education. The staff person assigned responsibilities in this area reports there have been approximately ten complaints, other than those involving Peoria, during the past two years which involved alleged "excessive" corporal punishment in schools on the basis of bruising, welts, etc. In addition, there have been a number of reported instances where parents had submitted a written request that their child not be given corporal punishment, but the "paddling" occurred nevertheless. Exact figures are not available.

In one instance, for example (1982), parents sent pictures of bruises (photographed in a hospital emergency room) which resulted from a paddling. The Superintendent of the district acknowledged that the teacher was "carried away" in the course of administering the punishment. The complaint was presented to the local school board, but no action was taken against the teacher. The parents did not file suit. The State Board of Education had no involvement subsequent to the initial contact.

Information provided by staff suggests that the expense of legal proceedings is a deterrent to parents taking legal recourse. The recommendations to parents follow the procedure outlined in SBE Document-1, which recommends contact with the teacher, Principal, Superintendent, School Board, and, finally, filing suit in court. All contacts with parents are shared with

the appropriate Regional Superintendent, and the District Superintendent is called and made aware of the nature of the complaint.

IV. Practices and Policies in Selected States, Metropolitan Districts and Organizations

While a great deal has been written about corporal punishment, few statistics are available which document the incidence of its use in schools. In an effort to obtain current information on the use of corporal punishment, staff in a number of states, large cities, and professional agencies or organizations were contacted by telephone. A brief summary of the information obtained from selected states is provided in Table 1.

Four states currently prohibit, by statute or regulation, the use of corporal punishment in their schools: Massachusetts, New Jersey, Maine and Hawaii. In Massachusetts, corporal punishment has been illegal for about ten years. The law was recently amended, however, to allow teachers and other school personnel to use reasonable force to protect themselves or others from bodily harm. There are no additional state policies or regulations. Each school district, however, establishes its own disciplinary code. There is no major, current litigation regarding corporal punishment.

The New Jersey law prohibiting the use of corporal punishment applies to both public and nonpublic schools. The statute includes a clause which allows the use of reasonable force to prevent harm to oneself or to others. There are no additional state policies or regulations other than due process provisions for those accused of using corporal punishment. Tenured staff accused of violating educational law may appeal decisions to the Commissioner of Education after local remedies of resolving differences have been exhausted. This provision does not apply to nontenured teachers.

In Maine, corporal punishment has been prohibited for almost a decade. The law states that physical force shall be used only to restrain someone from hurting someone else or hurting themselves. There are no additional state policies or regulations, and there has been no current or major litigation regarding the use of corporal punishment.

Hawaii prohibits the use of corporal punishment in schools by regulation, effective in 1982. The state discipline code was recently reviewed and revised, and the regulation prohibiting corporal punishment emerged from that process. The process included extensive hearings at which parents, educators, and others testified.

Several states which currently allow corporal punishment but are reviewing their policies are California, New York, Virginia and West Virginia. In West Virginia, corporal punishment is restricted to the use of the open hand on the buttocks of a fully-clothed child. In Virginia, a 1982 bill prohibiting the use of corporal punishment was defeated by one vote.

As a practical matter, California law actually restricts corporal punishment, primarily because parents must indicate, in writing, that corporal punishment may be used to discipline their children if needed. Written parental permission must be obtained annually. School districts must also adopt policies on the use of corporal punishment and parents must be notified of the policy. These restrictions have had the effect of greatly reducing the use of corporal punishment in the schools, according to information provided to staff.

In New York, the Board of Regents reportedly has initiated activities to seek the authority to alter, regulate, or prohibit the use of corporal punishment in New York schools. Formal legislation which would grant this authority, however, has not yet been introduced.

Information obtained from those states with no laws prohibiting the use of corporal punishment indicates that individual districts are encouraged to establish local policies and standards on the use of corporal punishment. Some states require local districts to adopt discipline policies. Local policies may include prohibition of the use of corporal punishment in the district. States in which corporal punishment is permitted generally, do not have state policies or regulations governing the use of corporal punishment other than to require or encourage local districts to adopt policies on discipline.

In those states where corporal punishment is permitted, laws or regulations generally exist which protect teachers and other educational personnel from possible criminal prosecution, e.g. assault and battery without adequate cause. Teachers are acquitted when prosecuted unless "excessive or unreasonable" force is employed when using corporal punishment. Corporal punishment is usually considered to be an effective form of discipline and is viewed as a reasonable extension of the in loco parentis practices employed in the schools. As a general rule, corporal punishment does not seem to be an important issue in those states where it is permitted, according to comments from several individuals during the interviews conducted for this report.

Table 2 provides information on the use of corporal punishment in selected large cities. The New York City and Chicago school systems have had long standing policies prohibiting the use of corporal punishment in the schools. In these cities, as well as in the states where corporal punishment has been abolished, the prohibitions against the use of corporal punishment are generally considered to be effective deterents against potential child abuse. Cases of alleged abuse, in fact, provided the major impetus behind the prohibition of corporal punishment in St. Louis schools. Alternative methods of disciplining school children are stressed. These include counseling, in-school suspension, conferences with students and/or parents, out-of-school suspension, and in more serious discipline cases, expulsion or referral to a social worker.

In other selected cities where corporal punishment is permitted, its use is often restricted by school policy or regulation. Restrictions and limitations include the type of offense for which corporal punishment may be used, the type and size of paddle to be used, the use of witnesses, and the frequency and number of swats with a board that are permitted. The East St. Louis school system is an example of where the use of corporal punishment is restrictive by district policy. In Elgin and Rockford, corporal punishment is permitted - that is, written policy still allows corporal punishment but as a practical matter it is no longer used. Under current administration, principals and teachers are discouraged from using corporal punishment in these districts.

School staff in those districts where corporal punishment is permitted and used, reported that it is an effective measure as a deterrent for repeated misbehavior, and that its use is supported by the community for the purpose of maintaining order and discipline.

During the course of interviews, a number of educators commented that corporal punishment was seldom used at the secondary level, because high school males present a risk of retaliation. Also, the sexual maturity of high school females suggested impropriety in paddling, and it is rarely applied.

In summary, in those states and large cities that have laws or regulations prohibiting the use of corporal punishment, the laws and regulations are considered effective and necessary by educational administrators and agency staff. Prohibition of corporal punishment is viewed as an effective restraint against unreasonable or excessive use of force as a disciplinary measure. These states and large cities, however, generally also have policies, laws, or regulations which allow teachers and other educational staff to use reasonable force to protect themselves or others from physical harm. Generally, there are no additional state policies or regulations concerning corporal punishment in those states where it is prohibited. They are not considered necessary. Professional educators in those states and large cities where corporal punishment is prohibited reportedly feel that alternative methods of discipline can be just as effective, and that corporal punishment may be counter-productive to educational goals and objectives. They further believe, according to their comments to staff, that there are ways to resolve conflict without resorting to violence, and that nothing short of abolition of corporal punishment would afford sufficient protection for children from the infrequent, but excessive and unreasonable use of force.

In those states and large cities where corporal punishment is permitted, its use is often limited. School district policy often specifies the method and frequency of use of corporal punishment. Nevertheless, corporal punishment is considered to be effective in maintaining order and discipline. It is also believed that there is community support for the use of corporal punishment for these purposes.

The presence or absence of policy statements on corporal punishment are reported in Table 3 for a selected group of organizations involved with education. This table shows that most state or federal agencies do not have a formal position on the use of corporal punishment, that the Illinois Federation of Teachers and the National Education Association differ in their positions, and that many educational organizations and special interest groups oppose the use of corporal punishment.

Litigation

Litigation regarding corporal punishment generally focuses on two types of issues:

1. The unreasonable or excessive use of corporal punishment by teachers or educational personnel.

2. The use of corporal punishment by educational staff in those states or districts where it is prohibited.

In the second instance, the issue which usually needs to be resolved is whether corporal punishment was, in fact, used to discipline children. The operational definition of corporal punishment, as it is applied in a state or district, is often a central issue in these types of cases. For example, corporal punishment may be defined as "paddling," or the definition may be more general, causing the practices of pinching, shoving, kicking, etc. to become issues of dispute.

The first type of issue, the excessive or unreasonable use of corporal punishment (or force) is often more complicated. The following case identifies the major issues to be resolved when a teacher is charged with excessive or unreasonable use of force. This case was cited by opposition groups as a landmark in the eventual elimination of corporal punishment, because it goes farther than any earlier court decision in describing the substantive due process concept as it applies to school discipline.

Hall v. Tawney

621F.2d 607 (1980)

This West Virginia court case arose from an incident in which a 12 year old grade school student, Naomi Hall, was paddled by a teacher, G. Garrison Tawney. The school's principal authorized the paddling.

Naomi was spanked with a rubber paddle, after which she was taken to a hospital emergency room, "where she was admitted and kept for ten (10) days for the treatment of traumatic injury to the soft tissue of the left hip and thigh, trauma to the skin of the left thigh and trauma to the soft tissue with ecchyniosis of the left buttock" and was "receiving treatment. . .for possible permanent injuries to her lower back and spine. . ."

The U.S. District Court for the Southern District of West Virginia dismissed action against the teacher and school officials brought by Naomi's parents. The complaint charged violation of Naomi's constitutional rights of procedural and substantive due process, cruel and unusual punishment, rights of equal protection of the law; and of the parents substantive due process rights. The district court dismissed the entire action.

Subsequent appeal in the United States Court of Appeals, Fourth Circuit, affirmed in part, reversed and remanded in part, the district court dismissal.

Citing a Supreme Court case, the Appeals Court dismissed the parent's substantive due process rights because "parental approval of corporal punishment is not constitutionally required." Ingraham, 430 U.S. at 662 N. 22, 97 S.C.T. and 1408 17.22. The opinion holds that the state interest in maintaining order can limit parents from excepting their children to the regime to which other children are subject without violating the U.S. Constitution.

The second count of rights of equal protection of the law was dismissed on the grounds that the degree or severity of punishment is not appropriately a part of determining the appropriate nature of the punishment.

The constitutional rights of bodily security under the Eighth Amendment (cruel and unusual treatment) were dismissed because Naomi had no Eighth Amendment rights. This is limited to persons convicted of crime.

However, the dismissal of the charge of denial of Naomi's substantive due process rights was reversed and the district court was directed to proceed with the claim of denial of substantive due process and pendent state tort claims.

Substantive due process inquiry is based on "whether the force applied caused injury so severe, was so disproportionate to the need presented, and was so inspired by malice or sadism rather than a merely careless or unwise excess of zeal that it amounted to a brutal and inhumane abuse of official power literally shocking to the conscience." See Johnson v. Glick, 481 F.2d 1028, 1033 (2d Cir. 1973) (Friendly, J).

State tort claims constitute civil action for a wrongful act and, if proven, involve the payment of money by the defendant to the plaintiff (Naomi) in an amount determined by the court to be sufficient compensation for damages.

The case has not yet been heard in District court, but the ruling by the Appeals Court that this case represented sufficient grounds for court action is considered to be a precedent which will affect future cases involving alleged excessive corporal punishment in schools.

Table 1. The Use of Corporal Punishment in Selected States

States	Corporal Punishment Permitted Yes	No	Comments
California	X		Parents must give written permission for corporal punishment to be used.
Hawaii		X	Staff may use force to protect themselves or others from bodily harm.
Illinois	X		Parents may request that corporal punishment not be used on their children.
Maine		X	Staff may use force to protect themselves or others from bodily harm.
Massachusetts		X	Staff may use force to protect themselves or others from bodily harm.
Michigan	X		Local school boards must adopt policies.
New Jersey		X	Staff may use force to protect themselves or others from bodily harm.
New York	X		The Board of Regents is seeking authority to regulate corporal punishment.
Texas	X		Local school boards may adopt their own policies.
Virginia	X		Bill prohibiting use of corporal punishment was defeated by 1 vote.
West Virginia	X		Corporal punishment restricted to use of open hand on buttocks.
Wisconsin	X		Common law practice of allowing teachers to act "in the place of parent" has been codified.
*All Other States	X		
Total	46	4	

*Not contacted.

Table 2. The Use of Corporal Punishment in Selected Large Cities

	Corporal Punishment Permitted Yes	No	Comments
Illinois Cities			
Chicago		X	Has had long-standing policy prohibiting corporal punishment.
East St. Louis	X		Corporal punishment use has reportedly decreased in recent years.
Elgin	X		Corporal punishment permitted but not practiced.
Rockford	X		Corporal punishment permitted but its use is almost non-existent.
Out-of-State Cities			
Detriot, MI	X		Corporal punishment is discouraged but allowed if teacher feels nothing else would be effective.
Houston, TX	X		Parents can request that corporal punishment not be used on their children.
Indianapolis, IN	X		Corporal punishment is allowed, but with a number of limitations.
Los Angeles, CA	X		Corporal punishment permitted within the restrictions of state law requiring written parent consent.
Madison, WI		X	Force may be used to protect oneself or others from harm.
Miami, FL	X		Corporal punishment permitted, but restricted.
New York City, NY		X	Has had long-standing policy prohibiting corporal punishment.
St. Louis, MO		X	Cases of alleged abuse were the basis for prohibiting corporal punishment.

Table 3

Professional Organizations and Agencies
Position Regarding Corporal Punishment

Agency/Organization	POSITION		
	Support	Oppose	No Formal Position
*American Federation of Teachers	X		
*American Academy of Pediatrics		X	
*American Civil Liberties Union		X	
*American Psychological Association		X	
*American Public Health Association		X	
Breakthrough Program for Educational Opportunity, University of Michigan		X	
Educational Commission of the States			X
End Violence Against the Next Generation, Berkeley, CA.		X	
*National Association for the Advancement of Colored People		X	
*National Association of School Boards			X
National Association of State Boards of Education			X
National Center for the Study of Corporal Punishment and Alternatives in Schools, Temple University		X	
*National Education Association		X	
National Institute of Education			X
Office of Civil Rights, Department of Education			X
*Society for Adolescent Medicine		X	

*Position based on reports from other material. These groups were not contacted.

V. Selected Literature Survey

The copious material available on the subject of corporal punishment necessitated limiting this section to a selection of articles which are representative of both sides of the issue.

Kinnard and Rust (1981) in a survey of 101 Tennessee school superintendents, found that all of them permitted corporal punishment, but only 57 kept records of corporal punishment usage. In this study, corporal punishment was considered effective in many cases, and the community was viewed as supportive of corporal punishment.

Burmeister (1981) provides a summary of arguments for and against corporal punishment in school by stating that abolitionists argue that it is (1) archiac barbarism, (2) totally ineffective, (3) a gross violation of human rights and dignity, and (4) has no place in school because a child should not be subjected to the kind of punishment from which the Law protects even the worse criminal. Retentionists view corporal punishment as (1) indispensable to discipline and learning, (2) sanctioned by tradition, and (3) supported by society. The current "conservative" public mood seems supportive of traditional discipline in the home and school. A brief historical review of discipline includes strong religious origins such as, "Withhold not correction from the child: for if those beatest him with the rod, he shall not die. "(Prov. XXIII, 13) By the 1880's, the Puritan belief of "corruption" in constant need of punishment was modified into a belief that children should be guided, not punished, in preparation for adult life, but, even in contemporary society, the law recognizes the protection of society as having precedence over the rights of children. With few exceptions, instances of excessive corporal punishment have been turned away by the courts, holding that malice or permanent injury must be proved before a complaint can become actionable under the law. The Humanistic view, seeking to abolish corporal punishment on intellectual and moral grounds, does not reflect the majority view of society. The Puritan or Calvinistic view, seeking to protect society from the child's transgressions, is supported by religious morality and grassroots tradition. The author concludes that it may be possible to curb abuses of corporal punishment, but abolishment of corporal punishment is highly unlikely.

Cryan (1981) presents a collection of six articles in opposition to corporal punishment. The authors consist of university staff, psychologists, and the director of an organization:

> Hyman and Lally (1981) trace the rationale for the use of corporal punishment to early biblical scriptures and state that modern day Fundamentalists are "rabid supporters of the use of corporal punishment." The authors point out that in loco parentis derived from English law when the wealthy hired tutors to teach their children. If the tutors were unsatisfactory, parents could dismiss them. The current system of public education insulates teachers from parents. Results of an Office of Civil Rights survey were quoted as estimating 1,500,000 cases of corporal punishment in school districts in 1976. The authors feel that corporal punishment should be abolished but it "is as sacred as apple pie and the American flag. A long historical, religious and political tradition will be hard to eliminate."

Maurer (1981) refutes the argument that learning and discipline will be adversely affected in the absence of corporal punishment. The following arguments are offered: Corporal punishment (1) preempts better means of communicating with a child, (2) teaches by example that the infliction of pain on others is permissible, (3) increases aggressiveness in the child, (4) develops deviousness, (5) dangerous in that it escalates into battering, (6) reduces the ability to concentrate on intellectual tasks, (7) can cause sexual abberations and (8) is inconsistent with any view of the child as a person worthy of respect.

Cryan and Smith (1981) cite custom and tradition in support of corporal punishment as having origins in biblical quotations such as "Foolishness is bound in the heart of a child; but the rod of correction shall drive it far from him....withhold not correction from the child; for if thou beatest him with the rod, he shall not die. Thou shalt beat him with the rod, and shalt deliver his soul from hell" (Proverbs 22:13, 23:13, 14). Examples of court cases and laws supporting the use of corporal punishment are reviewed, and the authors conclude that states have primary responsibility for educational policies governing the use of corporal punishment.

Wessel (1981) provides the viewpoint of a pediatrician in regard to corporal punishment. The inability of children at various developmental stages to conform to adult expectations or to comprehend the reasons for being subjected to corporal punishment are important factors which may create undesirable reactions on the part of the child. Wessel states that parents are prosecuted under child abuse legislation for actions which large numbers of educators legally inflict on students.

Williams (1981) berates the practice of corporal punishment in either homes or schools contending that children are "beaten with paddles, rattans, straps, belts and fists...(and) are slapped, dragged by their hair, shaken, choked, pushed, pulled. . .(for) not paying attention, chewing gum, failing to say 'sir', entering the classroom with shirt-tails out, hitting a classmate. . ." He defines children as the weakest members of the human species and the only group legally and socially subject to corporal punishment.

Valusek (1981) develops an argument that corporal punishment serves as a model of violence which creates a cycle from generation to generation. Violence, in general, cannot be reduced until the practice of using it on young children is eliminated. Valusek seems to believe that eliminating corporal punishment would eventually reduce the incidence of over-all violence in our society.

Newman (1980) provides a chronological history of student violence and disobedience in schools that begins with medevial times. The practice of public beatings were introduced in Jesuit schools. Students were so militant in the late 18th and early 19th centuries that military assistance was sometimes required to restore order. This open rebellion was not present in our Puritan schools, where textbooks emphasized that "God. . .(would) not only punish them. . . in the day

of judgment, but he will execute also punishments on their bodies here in thys world." In 1843, Horace Mann reported 328 separate floggings in a school of 250 pupils during one week. The 20th century was characterized by a tremendous expansion and extention of public education for all children under compulsory attendance laws. Newman suggests that this "captive" group will continue to rebel and that stringent discipline, i.e., corporal punishment, will prove no more effective now than it has in the past. The author suggests flexibility in school attendance laws which would make education available but not compulsory for adolescents.

Barba (1978) begins the history of corporal punishment with the Colonial period when "the age-old tradition of the rod came to this country as an instrument of restraint upon sin." Numerous court decisions are reviewed which support the use of corporal punishment in United States schools. Some findings are that physical punishment is (1) used with younger children less capable of defending themselves, (2) more prevalent in low-economic areas, (3) rarely used on girls, (4) no more of a deterrent than any other punishment, and is (5) an instrument of control rather than learning. Barba concludes that corporal punishment is a controversial subject: School administrators favor it, but parents do not.

Both Barba (1978) and Wessel (1981) report that many foreign countries prohibit the use of corporal punishment in schools. Countries which do not allow corporal punishment are reported to include Austria, Belgium, Denmark, Ecuador, Finland, France, Holland, Iceland, Isarel, Italy, Japan, Jordan, Luxembourg, Martinus, Norway, the Phillipines, Poland, Portugal, Russia, Sweden and Sri Lanka. Great Britain, Scotland, Australia and the United States do permit corporal punishment, and retention of this form of discipline is attributed to Anglo-Saxon heritage.

Boonin (1979) reported on a survey of all 50 chief state school officers. Forty states authorize school corporal punishment by law, but 37 of these states did not define corporal punishment. Only two states (at the time) neither legally authorize nor administer corporal punishment. She further reported that in all cases where corporal punishment is authorized, it is used only with children in grades K-8, and then, primarily on males. Survey responses, by state, are shown in Table 4.

Brenton (1978) reports that those who favor corporal punishment in schools are convinced that (1) corporal punishment works both as a deterrent to would-be offenders and to inhibit repetition of transgressions, (2) schools have to spank because parents don't; the school has to act as a parent substitute, (3) parents want their children spanked in school, and (4) corporal punishment is preferable to some other kinds of discipline; suspension removes students from the educational environment. Opponents of corporal punishment take issue with all of these arguments and add (1) children are often hit for trival reasons, (2) child abuse can occur, (3) corporal punishment is often used discriminatorily, (4) aggression against students fosters the development of agression in students, and (5) for minimal effectiveness, physical punishment has to be repeated and repeated.

The National Institute of Education Director is quoted as saying. "Corporal punishment does not seem to be a factor in whether school discipline problems get better or worse. . . . The most significant factor. . .is the leadership role of the principal." Alternative forms of discipline and programs are suggested to be more effective than corporal punishment.

Farley and others (1978) conducted a survey of 36 school districts and concluded that there seems to be a trend toward eliminating corporal punishment. He reported that many districts reported that corporal punishment had proved less effective than alternative disciplinary measures such as suspension, parent conferences, counseling, and programs that helped to prevent delinquency.

Glackman and others (1978) analyzed survey data from 116 schools and found that (1) minority group students, particularly males, are corporally punished more often than their white peers; (2) boys, in general, receive more corporal punishment than girls; and (3) schools that use corporal punishment frequently also have high rates of suspension.

Hapkiewicz (1975) in a review of research literature on corporal punishment concluded that the incidence of corporal punishment has increased over the last twenty years, and that it is widely used in some local school districts. He adds that because it is limited by ethical problems, research cannot answer many questions about the direct and indirect effects of corporal punishment. The incidence of corporal punishment and the absence of research evidence suggest that the justification for corporal punishment may come from such areas as religious beliefs and court decisions.

VI. Findings

The following summarizes information provided in earlier sections of this report. An attempt was made to identify those findings which are central to the study of corporal punishment.

1. Corporal punishment is permitted in forty-six states, although there is wide variation in the actual use and prescribed form of corporal punishment which is permitted.

2. Four states prohibit the use of corporal punishment. Verbal reports from representatives of those state educational agencies attest to their belief in the effectiveness of other disciplinary methods used in the place of corporal punishment.

3. Among large school districts in metropolitan areas, there was a tendency to either prohibit corporal punishment or restrict its use by the existence of specific policies and procedures.

4. In response to the occasional misuse of corporal punishment, many states and individual districts have provided safeguards for the protection of students by establishing one or more of the following conditions. Where these conditions have been imposed, corporal punishment has reportedly declined (Virginia Beach, Va., State of California, etc.):

   a. Requiring written parental permission for corporal punishment.
   b. Granting written parental requests to exempt students from corporal punishment.
   c. Notifying parents prior to corporal punishment being administered.
   d. Restricting "spanking" to application of the bare hand on the buttocks of a fully-clothed child.
   e. Requiring a full report on each instance of corporal punishment, which includes the names of the teacher and student, description of the misbehavior and description of the punishment, such reports to be reviewed monthly by the local school board.
   f. Developing formal board policy which makes excessive or unreasonable use of corporal punishment cause for teacher dismissal.
   g. Expanding the State Penal Code through legislation to make educators liable for injuries sustained by students as a result of corporal punishment.

5. Advocates of maintaining corporal punishment in schools base their position on the belief that it is:

   a. effective and efficient,
   b. necessary when other disciplinary methods fail,
   c. socially acceptable to parents,
   d. based on long tradition,
   e. sanctioned by many religious and ethnic groups,
   f. not likely to result in injuiry or damage to children.

6. Opponents of corporal punishment in schools base their position on the belief that it is:

   a. an archiac practice no longer reflecting society's values,
   b. cruel and inappropriate,
   c. unnecessary when alternate forms of discipline are used,
   d. conducive to abuse or injury to children,
   e. counter-productive to the educational process.

7. Federal law offers few safeguards for children in the school setting, leaving the regulation of corporal punishment in schools to the primary discretion of the states.

8. The in loco parentis status of schools is interpreted differently by state agencies in Illinois.

9. The School Code of Illinois in Section 24-24, does not specifically address corporal punishment, but is permissive in allowing local districts to "maintain discipline."

10. State Board of Education Document 1, Section 2-8, requires districts to notify parents that they may submit a written request that corporal punishment not be administered to their child or children. However, there is no directive which requires school districts to grant the parents' request. There is no clear provision which allows parents to exempt their child from corporal punishment.

    State Board of Education Document 1, Section 2-1.2, does specify that districts must have a policy on discipline, including corporal punishment.

11. Research is inconclusive as to the benefit derived from the administration of corporal punishment. An overwhelming percentage of available literature is written in opposition to corporal punishment.

APPENDIX I

Report to the Policy and Planning Committee for the State Board of Education

April 29, 1982

Corporal Punishment

Definition

Corporal punishment is generally defined as paddling a student in order to punish him/her for misconduct. Its use as a means of discipling school children dates back to the colonial period, and continues to play a role in the public education of students in most parts of the country. Its use is widely accepted by contemporary society if administered with moderation, free from any element of cruelty. As in Illinois, most states give teachers the authority and responsibility to maintain order in the classroom.

Other States

States vary in the degree of corporal punishment authorized by state law, by local district policy and in implementation under local district rule. Maine, Massachusetts and New Jersey have prohibited its use in their schools, as have a number of larger cities. Of the twenty-three states that have addressed corporal punishement through legislation, twenty-one have authorized moderate use. The states vary in regard to requirements of prior parental notification and who should administer the punishment. Where states have not acted, the state courts have uniformly preserved under findings of courts the common-law rule permitting teachers to use reasonable force in disciplining students. If punishment is found by a court to have been unreasonable or excessive, the perpetuator is subject to possible civil and criminal liability.

POLICIES OF MAJOR EDUCATIONAL ORGANIZATIONS

Opinion regarding the use of corporal punishment in the educational field is divided. While the American Federation of Teachers has adopted a policy in favor of corporal punishment, the National Education Association opposes it. None of the national education associations (AASA, NASBE, NASBE) have written policies regarding corporal punishment; the National Association of School Boards urges schools to develop positive alternative programs for disruptive students. Many educational psychologists do not advocate the use of corporal punishment, stating that it can damage a child's development and attitude toward the school environment. Others, however, have said that in some cases it can be helpful. Alternative measures suggested to punish students and correct behavior range from parent and student conferences, the use of guidance counselors and psychologists to suspension (including "in-house" suspension) and expulsion. The courts have not passed judgment on the merits of corporal punishment as an educational tool but have addressed allegations that its use violates the constitution.

Findings of the Courts

Review of a number of court cases shows that the courts have considered many cases wherein students/parents have claimed that corporal punishment violates the Eighth Amendment, which prohibits the infliction of cruel and unusual punishment. This is applicable to the states through the due process clause of the Fourteenth Amendment, which prohibits deprivation of life, liberty or property without due process of the law.

In some cases, it was decided that the particular punishment was exceptionally harsh and exceeded the legal bounds of the state statute or the specific directions and limitations of local school board policy. Some courts have held that the Eighth Amendment does not apply to corporal punishment in the schools, that the prohibition against cruel and unusual punishment was designed only to protect those convicted of crime. Others have held that the openness of the public school and its supervision by the community afford significant safeguards, which are reinforced by the legal constraints of the common law. Further, courts have reasoned that if corporal punishment administered by the parent is not unconstitutional, then a reasonable utilization of that same form of punishment by a properly delegated person in a school is similarly not prohibited. Some courts have taken the position that the traditional common law remedies are fully adequate to afford due process and that requiring hearings prior to the imposition of corporal punishment cannot be justified in terms of time, costs, personnel and a diversion of attention from normal school pursuits.

ILLINOIS STATUTORY REQUIREMENTS

The School Code of Illinois (1981), Section 24-24, states that teachers and other certified educational employees shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline.

Section 2-1.2 of The Illinois Program for Evaluation, Supervision, and Recognition of Schools (SBE-1) requires local school districts to adopt and disseminate comprehensive policies regarding a number of issues, including student discipline and corporal punishment. The latter includes an option to refuse.

Illinois Local School District Data

Comprehensive data have not been collected regarding how many local school boards permit or prohibit corporal punishment. The federal Office of Civil Rights periodically collects data from the states. Surveys are made of statistically selected "high interest districts" - districts with at least 300 enrollment, frequent complaints, possible prior non-compliance, etc. The following information, from 350 districts in Illinois, on the number of students to whom corporal punishment was administered during the 1979-80 school term was reported.*

School Percentage of Minority Students	Minority Students Receiving Corporal Punishment	Non-Minority Students Receiving Corporal Punishment	Percentage of Minority Students Receiving Corporal Punishment
0-20%	555	6,108	.08
20-40%	1,743	2,600	4.01
40-60%	1,309	807	61.9
60-80%	393	164	70.6
80-100%	1,723	140	92.5
Totals	5,723	9,819	37%

*We do not know to what extent these represent elementary/secondary students.

Appendix II
Summaries of Selected Recent Newspaper Articles

Recent newspaper articles, collected by an organization dedicated to eliminating corporal punishment in schools (End Violence Against the Next Generation, Inc.), reported numerous instances of the mis-use of corporal punishment. Selected articles ranging from minor to major alleged abuses are reported below:

Cleveland Plain Dealer (Oh.) - A seventh grader was unjustly accused of forging a note which excused her from P.E. class and was then paddled in front of the class.

Lexington, Ky. - A class of 35 students each received 3 swats with a paddle when the teacher found answers to a history test floating around the room.

Gwinnette News, (Ga.) - A teacher kicked a 14-year old boy for talking during class. The class watched while the boy bent over for the kick. X-rays revealed deep bruising around the tail bone and medication was required to ease the student's pain.

Today's Spirit (Pa.) - A student "fooling around with a string" was told to stand with his nose against the blackboard. When he turned his head, the teacher grabbed the back of his head and smashed his face against the blackboard causing alleged face and head injuries.

St. Louis Post Dispatch (Mo.) - A 15 year-old student was allegedly struck in the mouth and on the arms by a teacher. The mother contended her son was struck with a hammer.

Daily Gazette (Okla.) - A father who paddled a 58 year-old male school teacher with the teacher's paddle (one swat) was charged with "assault with a dangerous weapon."

The message flowing from this sampling of reported incidents involving corporal punishment is that the possibility and/or opportunity for serious physical harm to students or adverse emotional reactions is possible under current regulations. The question revolves around the suitability of standards and degrees of punishment under the in loco parentis status of schools, which may exceed those of many parents.

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Hawaii (George Herman)
Maine (Deputy Superintendent)
Massachusetts (Monica Welch)
Michigan (Margie Schaar)
New Jersey (Paul DeMarco)
New York (Ken Pawson)
Texas (Patrick Whelan)
Wisconsin (Roy Dunn)

B. Metropolitan School Districts:

Chicago (Dr. Bryan)
Detroit (Mrs. Wheatley)
Los Angeles (Dr. Turner)
New York City (Ms. Lesser)
East St. Louis (Mr. Crow)
Elgin (Dr. Eisner)
Rockford (Dr. Aschendernner)
Houston (Mr. Cunningham)
Indianapolis (Mr. Nuttall)
Madison (Mr. Dyer)
Miami (Ms. Hipps)
St. Louis (Mr. Lee)

C. Organizations/Agencies:

Educational Commission of the States (C. Pipho)

End Violence Against the Next Generation, Inc. (A. Mauer)

Illinois Department of Children and Family Services (D. Schlosser)

National Association of State Boards of Education

National Center for the Study of Corporal Punishment and Alternatives in Schools (A. Fina)

Office of Civil Rights, Department of Education (J. Littlejohn)

Program for Educational Opportunity, University of Michigan (C. Vergon)

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